

From: Richard Frick
To: 'microsoft.atr(a)usdoj.gov '
Date: 1/28/02 12:20am
Subject: Microsoft Settlement

January 27, 2002

Dear Judge Kollar-Kotelly,

It is my understanding that over the past three years every federal court that has reviewed the Microsoft antitrust case has found that Microsoft repeatedly and aggressively violated U.S. antitrust laws and was liable for its illegal conduct. Most recently, a U.S. Court of Appeals ruled unanimously that Microsoft had clearly violated antitrust laws and that any government settlement with Microsoft, in order to protect other members of the technology community and the larger public, must have three key elements:

1. Terminate Microsoft's illegal monopoly,
2. Deny to Microsoft the fruits of its past violations, and
3. Prevent any future anticompetitive activity.

It is further my understanding that the Proposed Final Judgment fails to meet any of the three standards established by the court.

My experience with Anti-Trust and Nintendo certainly influence my feelings about this Microsoft's situation.

After four years of preparation for a trial, we settled out of court with Nintendo on the advice of our Anti-Trust council (Joe Alioto). He said that the current Anti-Trust climate let any business do anything they wished including breaking Anti-Trust law as long as it made "business sense". As a result my company, which held a valid US patent for technology making our products legal and compatible with Nintendo's game unit, died and left over 300 employees without United States based cartridge design, development and assembly work. The story of my company was featured in the PBS series "Losing the War with Japan". This story won an Emmy for investigative reporting.

By not enforcing Anti-Trust laws, Microsoft will continue to do the same to other companies as happened to my employees and our company.

I am sure, however, that Sun, AOL, Oracle and many others, in Microsoft's position would act in exactly the same manner. I don't want Microsoft to be replace by Sun, AOL or Oracle as the reigning monopoly. I simply believe Anti-Trust laws must uniformly and vigorously enforced!!

I work with people who absolutely "hate" Microsoft. They believe everyone who works for Microsoft are losers. It is a "religious" thing similar to what Mac owners feel about Apple.

At another small software firm I worked for, we were always panicked that Microsoft would eliminate the need for our software by baking it's capabilities into the operating system. Our original product was only available on the Mac. We were very cautious with Microsoft "evangelists" who visited and encouraged the development of a Windows version. They wanted to "assist" us in the development. We didn't trust Microsoft and figured they wanted to understand our code for their own purposes.

I would like to see Microsoft punished more severely than what seems to be happening but I do not want them destroyed. I do not believe they need to be broken up. I would like to see most of the \$36 billion they have in cash taken away and spent enforcing the court ordered three key element mentioned above. This would send a strong message to companies similar to Microsoft that Anti-Trust laws must be observed.

If Microsoft had to make the "Windows" operating system public domain, be paid a royalty for each copy used (\$20.00), other innovative companies could flourish and Microsoft would continue to be strong and powerful.

I personally like Microsoft products. They have brought stability to an otherwise fragmented platform market.

Knowing that this document is of public record, causes me some fear. This fear is based on the fact that I earn my living in the software industry. Should I become the target of Microsoft rage for writing this, I could be deprived of my ability to earn a living. It is my strong belief that this is public disclosure is seriously limiting other of my colleagues writing to you.

Best Regards in a very difficult decision and thank you for reading this e-mail.

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